

Agricultural Marketing Service, USDA

§ 1210.603

property laws, as community property, and

(2) So-called *joint ventures* wherein one or more parties to the agreement, informal or otherwise, contributed land and others contributed capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the production, handling, or importation of watermelons for market and the authority to transfer title to the watermelons so produced, handled, or imported.

(g) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(h) *Representative period* means the period designated by the Secretary pursuant to the Act.

§ 1210.602 Voting.

(a) Each person who is an eligible producer, handler, or importer as defined in this subpart, at the time of the referendum and who also was a producer, handler, or importer during the representative period, shall be entitled to one vote in the referendum: *Provided*, That each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce watermelons in which more than one of the parties is a producer, shall be entitled to one vote in the referendum covering only that producer's share of the ownership: *Provided further*, That the vote of a person who both produces and handles watermelons will be counted as a handler vote if the producer purchased watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or the combined total volume of watermelon handled by the producer from the producer's own production and purchased from other producer's production is more than 50 percent of the producer's own production: *Provided further*, That the vote of a person who both imports and handles watermelons will be counted as an importer vote if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person.

(b) Proxy voting is not authorized, but an officer or employee of a corporate producer, handler, or importer, or an administrator, executor, or trustee of a producing, handling, or importing entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that the individual is an officer, employee of the producer, handler, or importer, or an administrator, executor, or trustee of a producing, handling, or importing entity and that the individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) *Casting of ballots*. All ballots are to be cast as instructed by the Secretary.

§ 1210.603 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this section, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions in this section, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the voting period, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as said agent may deem advisable.

(d) Mail to eligible producers; importers; and in the case of an order assessing handlers, handlers whose names and addresses are known to the referendum agent; the instructions on voting; a ballot; and a summary of the terms and conditions to be voted upon.

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No person who claims to be eligible to vote shall be refused a ballot. However, such persons may be required to submit evidence of their eligibility.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1210.604 Subagents.

The referendum agent may appoint any individual or individuals necessary to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1210.605 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be questioned for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was questioned, by whom questioned, why the ballot was questioned, the results of any investigation made with respect to the questionable ballot, and the disposition of the questionable ballot. Ballots invalid under this subpart shall not be counted.

§ 1210.606 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1210.607 Confidential information.

All ballots cast and their contents and all other information or reports furnished to, compiled by, or in possession of, the referendum agent or subagents that reveal, or tend to reveal,

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the identity or vote of any producer, handler, or importer of watermelons shall be held strictly confidential and shall not be disclosed.

PART 1214—KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Subparts A–B [Reserved]

Subpart C—Procedure for the Conduct of Referenda in Connection With the Kiwifruit Research, Promotion, and Consumer Information Order

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Subparts A–B [Reserved]

Subpart C—Procedure for the Conduct of Referenda in Connection With the Kiwifruit Research, Promotion, and Consumer Information Order

§ 1214.200 General.

A referendum to determine whether eligible producers and importers favor the issuance of a proposed Kiwifruit Research, Promotion, and Consumer Information Order shall be conducted in accordance with this subpart.

§ 1214.201 Definitions.

Unless otherwise defined in this section, the definition of terms used in this subpart shall have the same meaning as the definitions in the Order.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.